

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 12.2.601 pertaining to state land) AMENDMENT
access tax credit)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On February 19, 2016, the Fish and Wildlife Commission (commission) proposes to amend the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than November 13, 2015, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.2.601 STATE PUBLIC LAND ACCESS TAX CREDIT (1) Pursuant to 15-30-2380 and 87-1-294, MCA, landowners may apply for a contract with the department to become eligible to receive a ~~\$500~~ \$750 tax credit for qualified access to ~~state public~~ land, as defined in ~~77-1-104~~ 87-1-294(9)(b), MCA.

(2) and (3) remain the same.

(4) The application must state the following and failure to include any one portion may result in denial of the application:

(a) legal land description of parcel of ~~state~~ public land to which access will be provided;

(b) remains the same.

(c) description of the road or travel route providing public access to the ~~state~~ public land parcel;

(d) map depicting ~~state~~ public land parcel, adjacent private land through which public access will be provided, access point where public access on private land begins, and travel route proposed for public access;

(e) description of method permitted to access ~~state~~ public lands;

(f) indication as to whether or not the landowner is lessee of ~~the~~ a state land parcel to which public access will be provided; and

(g) remains the same.

(5) The department must consider the following when awarding contracts:

- (a) verification that the state public lands are not restricted or closed to general recreational use by ~~Department of Natural Resources and Conservation~~ the land management agency that owns or has legal control of the public land parcel;
- (b) verification that the state public land will be available for a majority of the year to all general recreational use including hunting, fishing, hiking, wildlife watching, and other uses compatible with the use of state public lands;
- (c) access routes restricted to foot travel only;;
- (i) remains the same.
- (ii) must not exceed ~~half a mile~~ one linear mile from the beginning to the end of the access route; and
- (d) and (6) remain the same.
- (7) Land enrolled in any other department program that secures public access to a state public land parcel is not eligible for a contract through this program to provide access to that same state public land parcel.
- (8) remains the same.

AUTH: 87-1-294, MCA

IMP: 15-30-2380, 87-1-294, MCA

REASON: The 2015 Legislature passed Senate Bill (SB) 309, which amended statutes to expand the scope of a state lands access program to include federal lands, change the name from "Unlocking State Lands Program" to "Unlocking Public Lands Program," and increase the landowner tax benefits from \$500 to \$750 per enrolled parcel, with a total increase to the annual maximum benefit from \$2000 to \$3000. The proposed amendments are necessary to implement these new provisions contained in SB 309. The proposed amendment in (5)(c)(ii) is necessary to correct a clerical error in language that was previously adopted in 2014.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Department of Fish, Wildlife and Parks Wildlife Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpwld@mt.gov, and must be received no later than November 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Alan Charles at the above address no later than November 27, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 based on the number of landowners in Montana.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East 6th Street, Helena, Montana 59620-0701, or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 16, 2015.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Aimee Fausser
Aimee Fausser
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chairman
Fish and Wildlife Commission

Certified to the Secretary of State October 19, 2015.